

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

ERIC J. SCOTT,)
)
)
Plaintiff,) Case No.: 08 C 50091
)
)
vs.)
)
THE CITY OF ROCKFORD, a municipal)
Corporation, OFFICER ROSEMARY MATHEWS,)
individually, OFFICER DANIEL BASILE,)
individually, OFFICER JOSHUA GROVER,)
individually, OFFICER PAUL GALLAGHER,)
individually, and OFFICER JUAN TAPIA,)
individually,)
)
Defendants.)

DEFENDANTS' LOCAL RULE 56.1(a)(3) STATEMENT

NOW COME the Defendants, CITY OF ROCKFORD, OFFICERS ROSEMARY MATHEWS, DANIEL BASILE, JOSHUA GROVER, PAUL GALLAGHER, and JUAN TAPIA, by and through their attorneys, City of Rockford Department of Law, Patrick W. Hayes, Legal Director, and Angela L. Hammer, Assistant City Attorney and for their Local Rule 56.1(a)(3) Statement, states the following:

JURISDICTION AND VENUE

1. Plaintiff's Complaint arises under 42 U.S.C. §1983, the 4th Amendment and 14th Amendment to the United States Constitution.
2. Jurisdiction is vested in this Court pursuant to 28 U.S.C. §1331 and §1343(a)(3).
3. Venue is properly in this Court pursuant to 28 U.S.C. §1331.

PARTIES

4. Plaintiff is a citizen of the United States of America and a resident of the City of Rockford, County of Winnebago, Illinois.

5. The individual Defendants, ROSEMARY MATHEWS, DANIEL BASILE, JOSHUA GROVER, PAUL GALLAGHER, AND JUAN TAPIA were employed as police officers by the City of Rockford.

6. The City of Rockford is a municipal corporation of the State of Illinois.

UNCONTESTED FACTS

7. Officer Basile has been employed as police officer with the Rockford Police Department for over ten years. ***Deposition of Officer Basile, p. 5.***

8. On May 25, 2007, Officer Basile and Officer Tapia were assigned to M3 Streets Team. ***Deposition of Officer Basile, p. 9, 11.***

9. Officer Basile started work at 7:00 p.m. on May 24, 2007, and was working until 5:00 a.m. on May 25, 2007. ***Deposition of Officer Basile, p. 8.***

10. On May 25, 2007, Plaintiff consumed about six beers at State Street Station and took vicodin. ***Deposition of Eric Scott, p. 22, 31.***

11. At about 2:00 a.m. on May 25, 2007, Officer Basile was driving east on East State Street approaching Alpine in a black unmarked squad car. Officer Tapia was in the passenger seat of Officer Basile's car. ***Deposition of Officer Basile, p. 11, 14.***

12. Officer Basile's car was traveling eastbound in right lane on East State Street. ***Deposition of Officer Basile, p. 12.***

13. Officer Basile observed Plaintiff's car, a Kia, fail to stop when exiting the Shooters' parking lot at 4000 East State Street. Officer Basile had to brake to avoid from hitting Plaintiff's car. ***Deposition of Officer Basile, p. 13.***

14. Officer Basile observed Plaintiff's car straddle both the left and the right lane as Plaintiff was speeding off on East State Street. ***Deposition of Officer Basile, p. 12-13.***

15. After avoiding the collision with Plaintiff's car, Officer Basile followed Plaintiff's car. ***Deposition of Officer Basile, p. 13.***

16. Officer Basile observed Plaintiff's car straddling both lanes for eastbound traffic on East State Street. Then Plaintiff's car pulled way over into the left turn lane at Alpine and State Streets. ***Deposition of Officer Basile, p. 13.***

17. Plaintiff was stopped at the stoplight at Alpine and East State Street in the turn lane to travel north on Alpine. ***Deposition of Eric Scott, p. 23.***

18. The windows on Plaintiff's car were rolled down. ***Deposition of Eric Scott, p. 23.***

19. Officer Basile was stopped in the right lane to travel eastbound on East State Street at the light at Alpine. ***Deposition of Officer Basile, p. 15.***

20. Officer Basile activated the squad car's emergency lights. ***Deposition of Officer Basile, p. 15.***

21. Officer Basile exited his vehicle and approached Plaintiff's car. ***Deposition of Eric Scott, p. 24.***

22. As Officer Basile approached Plaintiff's car, it fled, squealed its tires, proceeded through the red light, and turned northbound on Alpine. ***Deposition of Officer Basile, p. 17.***

23. Officer Grover and Officer Aldrich were in an unmarked squad car stopped at the red light for eastbound traffic on East State Street at Alpine Road. ***Deposition of Officer Basile, p. 16-17.***

24. After observing Plaintiff's car commit a traffic offense, Officer Grover and Officer Aldrich activated their emergency lights and siren and proceeded after Plaintiff's car. ***Deposition of Officer Grover, p. 14.***

25. After fleeing through the red light, Plaintiff turned eastbound on Raven. ***Deposition of Officer Grover, p. 14.***

26. As Plaintiff is eastbound on Raven, Officer Grover observed Plaintiff braked hard and came to a stop. ***Deposition of Officer Grover, p. 15-16.***

27. Officer Grover saw Plaintiff's driver's side front door open. ***Deposition of Officer Grover, p. 15.***

28. Officer Grover observed Plaintiff get out of the vehicle, stand up and start to walk from the vehicle. ***Deposition of Officer Grover, p. 15.***

29. As Officer Grover approached Plaintiff's vehicle, he observed Plaintiff flee from the vehicle. ***Deposition of Officer Grover, p. 15.***

30. As Officer Grover approached Plaintiff, he repeatedly yelled, "Police, stop!" ***Deposition of Officer Grover, p. 15.***

31. Plaintiff did not respond to Officer Grover's commands, so Officer Grover grabbed Plaintiff's left arm. ***Deposition of Officer Grover, p. 16-17.***

32. Officer Grover felt Plaintiff try to pull away from his grasp. ***Deposition of Officer Grover, p. 18.***

33. Officer Grover identified himself as police and ordered Plaintiff to get down on the ground. *Deposition of Officer Grover, p. 18-19.*

34. Officer Grover felt constant tension on Plaintiff's arm, and Plaintiff was pulling away from Officer Grover. *Deposition of Officer Grover, p. 21.*

35. Officer Grover used an armbar takedown since Plaintiff did not respond to his verbal commands and continued to pull away. *Deposition of Officer Grover, p. 22.*

36. Plaintiff claims he was taken down aggressively as an officer grabbed his hand. Plaintiff claims he hit his face on the concrete. *Deposition of Plaintiff, p. 26.*

37. Once Plaintiff was on the ground, Officer Grover tried to handcuff Plaintiff. *Deposition of Officer Grover, p. 27.*

38. Officer Grover ordered Plaintiff to "Put your hands behind your back." *Deposition of Officer Grover, p. 27.*

39. Officer Grover was struggling to control Plaintiff. Plaintiff tried to actively push up off the ground. *Deposition of Officer Grover, p. 29.*

40. Officer Grover performed a headpin on Plaintiff since Plaintiff did not respond to his commands. *Deposition of Officer Grover, p. 29.*

41. Officer Basile observed Plaintiff on the ground. Officer Grover was implementing a head-pin technique on Plaintiff. *Deposition of Officer Basile, p. 18-19.*

42. Officer Tapia observed Plaintiff on the ground with his hands under his body. *Deposition of Officer Tapia, p. 18.*

43. Plaintiff was struggling, trying to do push-ups to get up. *Deposition of Officer Basile, p. 19.*

44. Since Plaintiff continued to struggle, Officer Basile assisted in trying to handcuff Plaintiff by grabbing Plaintiff's right arm. *Deposition of Officer Basile, p. 20. Deposition of Officer Tapia, p. 18.*

45. Officer Basile observed Plaintiff's left arm was underneath his chest or stomach area. Officer Basile was concerned that Plaintiff may be reaching for a weapon or holding a weapon. *Deposition of Officer Basile, p. 20-21.*

46. Officer Aldridge was at Plaintiff's legs. *Deposition of Officer Basile, p. 21.*

47. Officer Tapia was on Plaintiff's left side trying to get his left arm out from underneath him. *Deposition of Officer Basile, p. 21. Deposition of Officer Tapia, p. 19-20.*

48. Officer Basile kept ordering Plaintiff to stop resisting. *Deposition of Officer Basile, p. 21.*

49. All of the police officers were yelling at Plaintiff to stop resisting. *Deposition of Officer Basile, p. 21.*

50. Officer Basile observed Plaintiff was kicking and struggling. *Deposition of Officer Basile, p. 23.*

51. Officer Basile did not observe any of the police officers hit the Plaintiff. *Deposition of Officer, p. 23.*

52. Plaintiff does not claim any officers hit him. *Deposition of Plaintiff, p. 26-30.*

53. Plaintiff claims he felt the pressure of a knee on his jaw, his upper back and upper leg. *Deposition of Plaintiff, p. 29.*

54. Officer Tapia was unable to pull Plaintiff's arm from underneath him, so Officer Basile delivered three knee strikes to Plaintiff's ribs. As a result, Officer Tapia secured Plaintiff's left arm and the officers handcuffed Plaintiff. *Deposition of Officer Basile, p. 24.*

55. After Plaintiff was handcuffed and assisted to his feet, he declined medical attention for what appeared to Officer Grover as road rash-type injuries. *Deposition of Officer Grover, p. 37.*

56. Investigator Gallagher and Investigator Matthews arrived at the scene to complete the DUI investigation. *Deposition of Investigator Mathews, p. 10, 12.*

57. According to Investigator Mathews, Plaintiff did not appear to be in pain. *Deposition of Investigator Mathews, p. 19.*

58. According to Investigator Mathews, Plaintiff never requested medical attention at the scene. *Deposition of Investigator Mathews, p. 19.*

59. Plaintiff was arrested for resisting arrest, driving under the influence of alcohol, fleeing, improper lane use, disregard a traffic control device and squealing tires. *Deposition of Plaintiff, p. 32, and Exhibit A, certified copy of Plaintiff's guilty plea.*

60. Plaintiff was transported to the Public Safety Building. *Deposition of Investigator Gallagher, p. 11.*

61. Plaintiff blew a .152 on the breathalyzer. *Deposition of Plaintiff, p. 33.*

62. Plaintiff requested medical attention at the Public Safety Building and was transported to Swedish American Hospital. *Deposition of Officer Basile, p. 31.*

63. Plaintiff was treated and released from Swedish American Hospital. *Deposition of Plaintiff, p. 36.*

64. Plaintiff plead guilty to Driving Under the Influence of Alcohol, and Attempt to Resist Arrest. *Exhibit A, certified copy of Plaintiff's guilty plea.*

City of Rockford Department of Law

By: /s/ Angela L. Hammer
Angela L. Hammer, Assistant City Attorney

City of Rockford Department of Law
425 E. State Street
Rockford, IL 61104
(815) 987-5540